REMARKS/ARGUMENTS

Applicant responds herein to the Office Action dated November 26, 3007. A Petition for Extension of Time (one month) and the fee therefor are enclosed.

Applicant's attorneys appreciate the Examiner's continued thorough search and examination of the present patent application.

Claims 1-4 and 7-22 are pending in this application. Claims 7-14 have been withdrawn from consideration. Claims 1-4 and 15-22 have been rejected.

Claims 15 and 18 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,464,183 to McConnell ("McConnell"). Reconsideration and withdrawal of this rejection are respectfully requested.

Claims 15-17, 21 and 22 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,707,272 to Rasmussen ("Rasmussen"). Reconsideration and withdrawal of this rejection are respectfully requested.

Claims 1-4 and 20 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,655,425 to Wallace et al. ("Wallace") in view of U.S. Patent No. 5,944,238 to Stark ("Stark"). Reconsideration and withdrawal of this rejection are respectfully requested.

Claim 19 has been rejected under 35 U.S.C. §103(a) as being unpatentable over McConnell in view of U.S. Patent No. 6,299,116 to Levesque ("Levesque"). Reconsideration and withdrawal of this rejection are respectfully requested.

Independent claims 1, 15, and 21 have been amended to recite that the cup holder is for holding a cup tapered toward its bottom and recite "a ring having ... a shape suitable for receiving and supporting the cup" as in claims 1 and 21 and "a ring shaped to receive and support the cup" as in claim 15.

Cups that are tapered towards their bottom have a minimum cross sectional diameter at the bottom and a maximum cross sectional diameter at the top. When placed in a ring having a diameter larger than the minimum cross sectional diameter but smaller than the cup's maximum cross sectional diameter, the lower portion of the cup will pass through the ring while the upper portion of the cup (because of its larger diameter) will lodged in the ring and will be supported in the ring due to the diameter difference.

At col. 6, lines 9-27 McConnell describes its drink holder as follows:

> The drink holder 22 comprises an attachment member 28, a U-shaped support member 44 formed to the attachment member 28, an annular support 23 pivotally attached to the U-shaped support member 44 via pivots 46, and downwardly extending fingers 48 depending from the annular support 23. The support member 44 may optionally extend completely around the annular support member 23, thus providing protection thereto, so as to mitigate the likelihood of a spill occurring due to the annular support 23 being accidentally bumped.
>
> Each downwardly extending finger 48 is biased inwardly and movable outwardly such that various sizes of drinks are accommodatable thereby. Each finger 48 is preferably bent inwardly as it extends downwardly from the annular support 23. Each finger 48 preferably comprises a substantially horizontal support member 50 configured such that the drink rests thereupon when the drink holder 22 is used. Each finger 48 also preferably comprises an upper portion 51 and a lower portion 49 formed at an angle thereto. (Underlining added for emphasis)

Thus, McConnell's drink holder requires downwardly extending fingers 48 depending from the annular support 23, where each finger 48 preferably comprises a substantially horizontal support member 50 configured such that the drink rests thereupon when the drink holder 22 is used. In other words, McConnell teaches substantially horizontal support members 50 used for supporting drinks in the drink holder.

Because McConnell requires substantially horizontal support members 50 to support the drink, McConnell does not teach, disclose, or suggest "a ring shaped to receive and support the cup" as recited in claim 15. Therefore, McConnell does not anticipate claim 15.

Similar to McConnell, Rasmussen requires horizontal support, this is described at col. 1, lines 63-66, as follows:

> the bottom of arm 26 being connected by horizontal extension 28 to one end of a U-shaped member 30 disposed inverted in a vertical plane underneath the holder.

Because Rasmussen requires the U-shaped member 30 disposed underneath the holder to support the cup 36, Rasmussen does not teach, disclose, or suggest "a ring shaped to receive and support the cup" as recited in claim 15 or "a ring having a diameter smaller than the largest diameter of the cup and a shape suitable for receiving and supporting the cup" as recited in claim 21

Therefore, Rasmussen does not anticipate claims 15 and 21.

The prior art references like McConnell, Rasmussen, and Stark, are directed to holding soda cans, baby bottles, regular bottles, and other items that are generally shaped as right circular cylinders. Therefore, the bottom portions of holders described in these references, such as support members 50 in McConnell and the U-shaped member 30 in Rasmussen, are necessary to keep the items shaped as right circular cylinders from falling out. This is contrary to the recitations of the independent claims of the present application, which recite that the ring itself receives and supports the cup.

Independent claim 1 is directed to holding a cup tapered toward its bottom and recites "a ring having a diameter smaller than the largest diameter of the cup and a shape suitable for receiving and supporting the cup, wherein the ring has an inner surface a portion of which is flat such that the ring is configured to compress the cup along the flat portion of the ring thereby contributing to retaining the cup in the cup holder." In other words, the ring is adapted to receiving and supporting the cup and the flat portion of the ring (see Figures 10 and 12 section 99) is configured to compress the cup.

In addition to teaching the bottom support 11 as in McConnell and Rasmussen, Wallace teaches a resilient pusher element 27 (see Figures 1, 2, 5, and 6) to hold the cup 19 in the retainer 18. This implies that the ring diameter has a larger diameter than the largest diameter of the cup. Thus, Wallace teaches away from the "ring having a diameter smaller than the largest diameter of the cup and a shape suitable for receiving and supporting the cup. Further, by teaching the resilient pusher element 27, Wallace does not teach, disclose, or suggest that the ring is "configured to compress the cup along the flat portion of the ring thereby contributing to retaining the cup in the cup holder."

Stark does not teach or suggest a cup holder having a ring. Thus Stark does not remedy the above-discussed drawback of Wallace.

Therefore, Wallace and Stark do not render independent claim 1 obvious.

Levesque has not been used to reject any of the independent claims.

Claims 2-4, 16-20, and 22 depend directly or indirectly from above discussed independent claims and are, therefore, patentable for the same reasons, as well as because of the combination of features in those claims with the features set forth in the respective independent claims.

In view of the above, it is submitted that all claims in this application are now in condition for allowance, prompt notification of which is requested.

THIS CORRESPONDENCE IS BEING SUBMITTED ELECTRONICALLY THROUGH THE PATENT AND TRADEMARK OFFICE EFS FILING SYSTEM ON MARCH 26, 2008.

Respectfully submitted,

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